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OCT 14 2021

SC Court of Appeals

MOTION TO APPEAL

CASE NUMBER:

19021008

Shakel Raheem Dixon

Vs.

The State of South Carolina,
County of Aiken

In the South Carolina Supreme Court,
COURT OF APPEALS

Shakel Raheem Dixon does come before the Supreme Court of South Carolina, Court of Appeals, on this 11th day of the month of October in the year of 2021 to be heard on an appeal for the verdict and sentence associated with case number 19021008. This verdict and sentence was issued by a jury and Judge Clifton Newman of the 2nd Judicial Circuit in Aiken County, South Carolina on August 20, 2021.

The court will find that Shakel Raheem Dixon is entering this appeal, at this time, as an prose petitioner. And that Shakel Raheem Dixon does compel the court to scrutinize this appeal under

Federal rule U.S. 42 §1983, which issues liberal scrutiny to pro se inmates. And that, Shakel Raheem Dixon further compels the court to open the record and enter the following statements being sworn under oath and with the full understanding of the penalty of perjury.

I. Statement of Claims

I.1. Constitutional Deconstruction

That, both the United States and South Carolina have duly and legally established Constitutions and Amendments which have been enacted to protect rights, rights that are granted under law and are birthrights of every citizen of these United States of America and/or the state of South Carolina. These rights are granted no matter the station of ones race, creed, gender, or social standing.

The petitioner wishes to enter that multiple Constitutional rights were not only violated, but recklessly abandoned by the 2nd Judicial Circuit Court and its officers. Even the most primary and fundamental rights were stripped throughout the entire process of case number 19021008.

That, the petitioner is owed the full bounty of due process rights. That this full bounty should ensure lawful searches and seizures, lawful arrests, and lawful detentions. The courts will find that the petitioners due process rights were fully decimated when being arrested for a murder when there is no murder victim, and being arrested for possessing a weapon during a violent crime when there was no violent crime.

State vs. Covert gives a glimpse of these due process rights while ensuring that, with no crime being committed, there should have never been a search of the petitioner's vehicle or residence. Due process does not qualify hearsay or the pinging of cellular phones as an applicable strand to violate one's rights. Being in an "area" of a supposed crime does not qualify one of guilt or suspicion.

That, at the outset of case number 19021008, the petitioner experienced many major due process violations. These were the same types of violations that *California vs. Simpson* contended with that led to Simpson's exoneration. As Cochran famously contended, "if the glove don't fit you must acquit," as such, the petitioner does state that if there is no murder victim, there is no right to search, seize, or violate any due process right for suspicion of murder.

And that the prosecutor, Jacqueline Charbonneau, did violate South Carolina Rule 407 3.8 Professional Rules of Conduct, by prosecuting a case that lacked probable cause. This is another example of a due process violation that cannot be ignored. Once more, with no victim there is no probable cause for murder.

As important as due process is to the appeal of case number 19021008, the bigger sister is the 14th Amendment to the United States Constitution. And under the 14th Amendment the petitioner has the inalienable right to a fair trial. Along with that inalienable right comes the right to free of bias and prejudice.

State vs. Belcher creates a precedent that ensured Belcher was free of bias and prejudice, a precedent that should also ensure that the petitioner be protected from the same. The record will show that Shaqel Raheem Dixon is a black male in his early twenties. And that the selected jurors were all white, mostly middle aged women. The petitioner could not enjoy the right to a fair trial when not one juror could be counted as a peer.

There should never be a case, in these United States of America,

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When anyone is faced with a jury that is so socially and economically estranged from defendants as is the case from case number 19021008. To establish middle class, white, horse farmers as peers to a lower class, black, city man is a tragedy to our justice system. The petitioner does claim foul and demands more fair treatment under the 14th Amendment of the United States Constitution.

Further, back to the 6th Amendment of the United States Constitution: the petitioner does raise caution under the concept of effective counsel. Throughout the process of case number 19021008 the petitioner was represented by Barry Thompson of the Aiken County Public Defenders Office. And that Mr. Barry Thompson was not only ineffective, but he did more to assist the state than the petitioner.

For the record, the court will see that during the trial a juror did witness the petitioner wearing an orange jumpsuit and shackles. And the court will note that this type of exposure is against the rules of trial in the state of South Carolina. And that Barry Thompson refused to act against the prejudicially tainted juror. Combine this with the all white, mostly middle-aged female jury and the court will see the mockery that was made of the court, the petitioners rights, and the Constitution of the United States.

I2. Evidential Deconstruction

The petitioner, Shakel Raheem Dixon was arrested for the murder of Derrick Curry in Aiken, South Carolina. This arrest was made from claims made by Shariyah Toney and fragmentary evidence found at multiple locations. The arrest was also made without a supposed victims body, without a presupposed or supposed murder weapon, without DNA evidence that links the petitioner to any crime, and a witness who claims to have been with the supposed victim weeks after the supposed murder. This is the same witness who stated to Kenya Bush that Derrick Curry was "not dead."

These exhibits will establish the deconstruction of the evidence.

A. The Victim:

Derrick Curry is the supposed victim to a murder that took place in Aiken County in 2019. The record has shown this clearly for nearly three years. The record, however, has failed to show the truth that our justice system should continue to be built on:

That, Derrick Curry is a known associate of gang activity. That, at the present time, Derrick Curry has open warrants for armed robbery. That, Derrick Curry is a menace to society. And that these facts alone curtail reasonable doubt that Derrick Curry is capable of flight.

With no body, and an medical examiner who is unwilling to sign a death certificate, the petitioner does compel the court to find reasonable doubt that a murder ever took place. Bridging this gap would simply be impossible. Even SLED stated that there is not enough DNA for there to have been a murder.

Our justice system cannot be established on "what ifs" or "maybe sos". Our justice system is actually built on checks and balances that ensure a logical approach to the law. In the case of a missing "victim" who has active warrants and gang ties, it is only logical to conclude that Derrick Curry is not only alive and well, but has taken flight and is a fugitive from justice.

This conclusion is not only based on the facts surrounding Derrick Curry, but by statements made by the only witness.

B. The Witness:

Shanivah Toney is the sole witness to the supposed murder of Derrick Curry. Her statements, on record, claim that Derrick Curry was murdered by the petitioner and other defendants. This was the "on the record" side of Toney. The "off the record" side of Toney shares a whole other story. The petitioner enters the following exhibits into the court:

1. Shanivah Toney at first text messaged Kenya Bush stating that Derrick Curry was not dead. Later, Toney claimed that Derrick Curry had been murdered. Later still, Toney claimed to have had sexual relations with Derrick Curry long after the supposed murder. If the court please, Shanivah Toney lives in a world of myth. In her world Derrick Curry is both alive and murdered at the same time.

The court will see that Toney either helped Curry to leave the area and escape possible arrest, or Toney herself is the culprit to the murder of Derrick Curry. She does, after all, seem to have all the answers, at times, to the Derrick Curry disappearance.

2. That, Shaniyah Toney did leave Aiken County for a period of between six and nine days directly after the supposed murder of Derrick Curry. In an effort to usher the court back to the real world, the petitioner moves to enter article 1 for the record. Article 1 is the fingerprints of Elijah Sloan that were ignored. These are fingerprints that belong to Toney's boyfriend. They are also fingerprints found on the car that contained Curry's DNA. The petitioner moves that Toney and Sloan should be held as suspects or harborers of fugitives from justice. It is either that Toney or Sloan carried out a murder or that, together, they conspired with Curry to help him to evade arrest.

3. That, during the trial of case number 19021008, Shaniyah Toney did receive text messages that threatened that if she did not testify she would be put in jail. As if the court needs more to understand the events that led to this motion, the petitioner does move to enter coercion and threats to the myriad examples of this biased, illegal, and unjust trial. The petitioner further compels the court to enter suspicion that these threatening texts did come from officers of the Aiken County Solicitors Office.

The unfortunate reality is that the petitioner and other defendants were found guilty of murdering Derrick Curry, primarily by the testimony of a witness who is a known prostitute, has gang ties, is an avid user of narcotics, and was tampered with by the state. Toney, the only witness, also lives in a world of Biblical proportions. Here, people die and raise from the dead often. If it pleases the court, this should not be.

C. Murder Weapon, DNA, and Blood

In case number 19021008, the state of South Carolina has presented a sizeable chart of fragments of physical evidence. Evidence, however, can only be evidence in the case of a crime. An example: if Derrick Curry were murdered, there would be a body to show how said murder took place. That body would lead

to a murder weapon, which would lead to DNA, which would lead to a suspect or suspects. That, however, cannot be the case as there is no body of Derrick Curry because there is no murder of Derrick Curry.

The state argued that evidence item 3 was blood evidence. SLED LAB No. L19-10370, however, tested the substance, and while proving to be blood, they were unable to create a DNA profile from it. The state, fully aware of the test results held item 3 at evidence marker #1 as physical evidence and presented it as such with no objections.

Evidence item 2.1, L-19-10370-30.3-4P(86), is from a swatch of carpet and carpet padding in the "front bedroom". The DNA shows that, with 1.4E28% certainty, Derrick Curry and unknown persons DNA is present. The petitioner does ask, with redundancy; does DNA on carpet prove murder? If so, the majority in the United States has been murdered. DNA belonging to person A, in a location that person A commonly frequents, is not evidence of a murder.

Ridiculous suppositions as these cannot be made only by a fragment or swatch of DNA found. The court, once more, will see that DNA is not a body or a victim. And that, DNA, alone, cannot tip the scales of justice when the DNA is not sufficient for there to have ever been a body present.

The state presented item 12, a Glock 9mm pistol, item 13, an Anderson Manufacturing Multi Caliber rifle, and item 14, a Dalton Inc SSG rifle, presupposing that one of these was used in the supposed murder of Derrick Curry.

The petitioner does enter that the presence of a handgun or a rifle does not point to murder. The court will see that SLED concluded that these firearms do not amount to enough evidence to prove that a murder took place. And that, SLED concluded that there wasn't DNA evidence to prove that anyone had died in any of the supposed locations.

If it pleases the court, fragmentary and inconclusive evidence cannot, nor should not convict or prove murder. Aiken County has reached to unprecedented levels of desparity in attempting to use

measures as these to secure convictions. With the risk of hooding the perversial dead horse, if there is no murder victim, there is no murder.

II. Summation

The petitioner does enter that the trial of case number 19021008 was concluded on August 20, 2021 and that said trial was not only illegal, that it not only violated many of the petitioners Constitutional rights, but that it was immoral and beyond inhumane. To look back at the trial of case number 19021008 one can only conclude a singular fact: that true justice does not exist within the courts of South Carolina's 2nd Judicial Circuit.

Throughout the trial of case number 19021008, the jury, a jury of all white, mostly middle aged women, was aloud to feed on the fruit of the poisonous tree. This jury, not a jury of peers, but one of convenience to the state, was given evidence, evidence that could not be denied, that the states star witness was no more than a burned out liar. This jury, a jury that should have been dismissed as prejudicial, was shown fragments of evidence, swatches of DNA from here and there, and bits and pieces of facts that were no more facts than they were grand illusions designed by the prosecution.

In hearing these lies and looking at these nonsense fragments, this jury, a jury who had been exposed to the petitioner wearing an orange jumpsuit and shackles, did submit a verdict of guilty. Guilty. The petitioner and other defendants were found guilty of the murder of Derrick Curry. They were convicted of possessing a weapon during a violent crime.

If it pleases the court, these convictions all came from the trial of case number 19021008, a case with no victim, no reliable witness, and evidence that only proved the presence of Derrick Curry, not his murder. Evidence in which SLED concluded was not enough to prove that a death had occurred.

Allow a recap: with no body or victim there is no one to make the accusation of murder. With no murder weapon, because there was no murder, there is no inferred malice. With an unreliable witness there is insufficient evidence to convict. With no DNA there is no identity because there is no murder victim. The petitioner has shown that a verdict of guilty is inconsistent due to insufficient evidence.

With this, the petitioner, Shakel Raheem Dixon, does compel the Supreme Court of South Carolina, Court of Appeals, to enter this appeal for case number 19021008.

ENTERED THIS DAY:

10/16/2021

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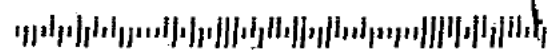
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